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SENATE BILL 72

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO CHILD ABUSE AND NEGLECT; CREATING THE CHILD  
ADVOCACY ADVISORY COUNCIL; ESTABLISHING MULTIDISCIPLINARY CHILD  
ABUSE INVESTIGATORY TEAMS IN EACH JUDICIAL DISTRICT; REQUIRING  
THAT ALL INVESTIGATIONS OF CHILD ABUSE AND NEGLECT BE CONDUCTED  
IN ACCORDANCE WITH APPROVED PROTOCOLS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. CHILD ADVOCACY ADVISORY COUNCIL--CREATION--  
MEMBERSHIP--DUTIES.--

A. The "child advocacy advisory council" is  
created. The council consists of the following three ex-  
officio members or their designees and six appointed members:

(1) the attorney general or the attorney  
general's designee;

(2) the secretary of children, youth and

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1 families or the secretary's designee;

2 (3) the director of the New Mexico children's  
3 safehouse network or the director's designee;

4 (4) two district attorneys appointed by the  
5 director of the administrative office of the district  
6 attorneys;

7 (5) two representatives from local law  
8 enforcement agencies appointed by the secretary of public  
9 safety; and

10 (6) two health professionals with expertise in  
11 child abuse and neglect treatment appointed by the secretary of  
12 health.

13 B. The council shall select a chair, a vice chair  
14 and other officers as it deems necessary.

15 C. The council shall meet at the call of the chair  
16 but not less than twice annually. A majority of members  
17 constitutes a quorum for the transaction of business. The  
18 affirmative vote of at least a majority of the quorum present  
19 shall be necessary for an action to be taken by the council.

20 D. The ex-officio board members shall select by lot  
21 three appointed members to serve initial terms of three years  
22 each. Thereafter, members shall be appointed to staggered  
23 terms of two years each; provided that no more than three terms  
24 expire in any one year. A vacancy shall be filled by  
25 appointment by the original appointing authority for the

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1 remainder of the unexpired term.

2 E. Appointed members are entitled to reimbursement  
3 for attending meetings of the board as provided for nonsalaried  
4 officers in the Per Diem and Mileage Act and shall receive no  
5 other compensation, perquisite or allowance.

6 F. The administrative office of the district  
7 attorneys shall provide staff for the council.

8 G. The council shall:

9 (1) develop and adopt a uniform model protocol  
10 for the investigation of cases of child abuse and neglect;

11 (2) review, evaluate and approve protocols  
12 developed by multidisciplinary child abuse investigatory teams;  
13 and

14 (3) review and revise the uniform model  
15 protocol every two years if necessary.

16 H. At least thirty days prior to the convening of  
17 each regular session of the legislature, the council shall  
18 transmit a report of its activities pursuant to this section  
19 to:

20 (1) the governor;

21 (2) the New Mexico legislative council;

22 (3) the attorney general;

23 (4) the secretary of children, youth and  
24 families;

25 (5) the secretary of health;

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- 1 (6) the secretary of public safety; and
- 2 (7) any other persons the council deems
- 3 appropriate.

4 Section 2. MULTIDISCIPLINARY CHILD ABUSE INVESTIGATORY  
5 TEAMS ESTABLISHED--MEMBERSHIP--DUTIES.--

6 A. A "multidisciplinary child abuse investigatory  
7 team" is created in each judicial district in the state.  
8 Members of each team are:

9 (1) the district attorney of the judicial  
10 district in which the team is created or the district  
11 attorney's designee;

12 (2) a representative from the protective  
13 services division of the children, youth and families  
14 department appointed by the director of the division;

15 (3) a representative from a children's  
16 safehouse program that exists in the judicial district in which  
17 the team is created, appointed by the director of the New  
18 Mexico children's safehouse network; and

19 (4) the following members appointed by the  
20 district attorney of the judicial district in which the team is  
21 created in consultation with the director of the New Mexico  
22 children's safehouse network:

23 (a) a representative from each law  
24 enforcement agency within the judicial district;

25 (b) medical personnel with expertise in

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1 child abuse and neglect identification and treatment; and

2 (c) any other members the district  
3 attorney deems appropriate.

4 B. Each multidisciplinary child abuse investigatory  
5 team shall:

6 (1) develop a written protocol for the  
7 investigation and prosecution of cases of child abuse and  
8 neglect in accordance with Section 3 of this 2008 act;

9 (2) convene upon the request of any team  
10 member in order to consider proposed modifications to the  
11 team's existing protocol; and

12 (3) train and provide technical assistance to  
13 team members, agencies and medical providers that investigate  
14 child abuse and neglect cases.

15 Section 3. PROTOCOL FOR CHILD ABUSE AND NEGLECT CASES  
16 REQUIRED--DEVELOPMENT OF PROTOCOL--CONTENTS AND APPROVAL.--

17 A. All investigations of child abuse and neglect in  
18 each judicial district in the state shall be conducted in  
19 accordance with the protocol for child abuse and neglect cases  
20 required pursuant to this section; provided a protocol has been  
21 developed by the multidisciplinary child abuse investigatory  
22 team in that judicial district and approved by the child  
23 advocacy advisory council.

24 B. No later than December 1, 2008, the child  
25 advocacy advisory council shall develop and adopt a uniform

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1 model protocol for the investigation of cases of child abuse  
2 and neglect. Upon adoption of the protocol, the council shall  
3 distribute the protocol to the district attorneys for each  
4 judicial district in the state and each agency in the state  
5 that is involved in the investigation and prosecution of cases  
6 of child abuse and neglect.

7 C. The purpose of the uniform model protocol shall  
8 be to increase the efficiency and effectiveness of the agencies  
9 handling the cases and to facilitate the provision of services  
10 to children and families. The protocol shall define roles and  
11 responsibilities of multidisciplinary child abuse investigatory  
12 teams, agencies and medical providers that investigate child  
13 abuse and neglect cases. The protocol shall include procedures  
14 and requirements for:

15 (1) conducting investigations in emergency and  
16 non-emergency cases, including descriptions of the roles of  
17 each agency and the multidisciplinary child abuse investigatory  
18 teams;

19 (2) conducting joint preliminary interviews  
20 and forensic interviews of child victims and family members;

21 (3) conducting medical examinations of child  
22 victims by medical practitioners with expertise in sexual abuse  
23 examinations;

24 (4) reducing the risk of harm to child  
25 victims, including ensuring that victims are in safe

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1 surroundings, and removing the alleged perpetrator when  
2 necessary;

3 (5) providing child victims mental and  
4 behavioral health services and victim advocacy;

5 (6) the role of the multidisciplinary child  
6 abuse investigatory team in making referrals to appropriate,  
7 licensed providers;

8 (7) periodic case reviews and tracking by  
9 multidisciplinary child abuse investigatory teams;

10 (8) maintaining the confidentiality of child  
11 victims, family members and records and information of agencies  
12 involved in investigations, including access to data by  
13 multidisciplinary child abuse investigatory team members from  
14 the consolidated offender query system as permitted by the  
15 children, youth and families department;

16 (9) providing training and technical  
17 assistance to multidisciplinary child abuse investigatory team  
18 members, agencies and medical providers that investigate child  
19 abuse and neglect cases; and

20 (10) scheduling meetings of the  
21 multidisciplinary child abuse investigatory teams and the  
22 designation of leadership roles.

23 D. No later than July 1, 2009, each  
24 multidisciplinary child abuse investigatory team shall:

25 (1) develop and adopt a written protocol for

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1 the investigation and prosecution of cases of child abuse and  
2 neglect in the judicial district that is consistent with the  
3 uniform model protocol adopted by the child advocacy advisory  
4 council and signed by each team member; and

5 (2) submit the protocol to the council for  
6 review and approval.

7 E. Protocols of a multidisciplinary child abuse  
8 investigatory team that are approved by the child advocacy  
9 advisory council shall be furnished by the team to each agency  
10 and medical provider in the team's judicial district that is  
11 involved in the investigation and prosecution of cases of child  
12 abuse and neglect.

13 Section 4. APPROPRIATIONS.--

14 A. Two hundred sixty thousand dollars (\$260,000) is  
15 appropriated from the general fund to the child advocacy  
16 advisory council for expenditure in fiscal years 2009 through  
17 2012 to assist New Mexico's thirteen judicial districts in  
18 carrying out the purposes of this act. Any unexpended or  
19 unencumbered balance remaining at the end of fiscal year 2012  
20 shall revert to the general fund. The appropriation shall be  
21 distributed by the child advocacy advisory council to each of  
22 New Mexico's thirteen judicial districts as follows:

23 (1) judicial districts that do not have  
24 protocols approved by the child advocacy advisory council shall  
25 receive a distribution to fund the development of protocols,

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1 best practices and training and technical assistance programs  
2 by multidisciplinary child abuse investigatory teams;

3 (2) judicial districts that have protocols  
4 approved by the child advocacy advisory council shall receive a  
5 distribution to fund the provision of training and technical  
6 assistance to agencies and medical providers by  
7 multidisciplinary child abuse investigatory teams; and

8 (3) no more than five thousand dollars  
9 (\$5,000) shall be distributed to a judicial district in each  
10 fiscal year.

11 B. Twenty-eight thousand dollars (\$28,000) is  
12 appropriated from the general fund to the administrative office  
13 of the district attorneys for expenditure in fiscal years 2009  
14 through 2012 for administrative costs related to carrying out  
15 this act. Any unexpended or unencumbered balance remaining at  
16 the end of fiscal year 2012 shall revert to the general fund.

17 C. One hundred fifty thousand dollars (\$150,000) is  
18 appropriated from the general fund to the New Mexico sentencing  
19 commission for expenditure in fiscal year 2009 to develop and  
20 complete the implementation of an expansion of the consolidated  
21 offender query system to enable the real-time viewing of child  
22 abuse and neglect cases reported to the children, youth and  
23 families department by law enforcement, district attorneys or  
24 other authorized personnel. Any unexpended or unencumbered  
25 balance remaining at the end of fiscal year 2009 shall revert

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to the general fund.

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.